



MINUTES

MERCHANTVILLE JOINT LAND USE BOARD

Borough Hall Council Chambers
1 West Maple Avenue, Merchantville, NJ 08109
Tuesday, September 10, 2019, 7:30pm

1. **CALL TO ORDER.** The meeting was called to order at 7:30pm.
2. **OPEN PUBLIC MEETINGS ACT.** The Chairman announced that the meeting was being held in accordance with the Open Public Meetings Act.
3. **PLEDGE OF ALLEGIANCE.** Persons present rose for the pledge of allegiance.
4. **ROLL CALL.** Ms. Wuebker called the roll, as follows. Board Attorney, Mr. Madden, and Board Engineer, Mr. Hanson were also present.

<u>Class IV</u>	<u>Class IV</u>	<u>Class I</u>	<u>Class IV</u>	<u>Class III</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class II</u>
Benjamin	Brennan	DeSimone	Fiume	Fitzgerald	Lammey	Licata	Stewart	Uricchio	Woods	Wuebker
	Present	Present	Present	Present	Present	Present	Present	Present	*	Present

* Mr. Woods joined the meeting at approximately 8pm.

5. OLD BUSINESS

- Approval of 7/9/19 Meeting Minutes Mr. Lammey made a motion to accept the minutes of July 9, 2019. Ms. Stewart seconded the motion. All those eligible to vote, voted as follows:

<u>Class IV</u>	<u>Class IV</u>	<u>Class I</u>	<u>Class IV</u>	<u>Class III</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class II</u>
Benjamin	Brennan	DeSimone	Fiume	Fitzgerald	Lammey	Licata	Stewart	Uricchio	Woods	Wuebker
	Yes	Abstain	Yes	Abstain	Yes	Abstain	Yes	Yes		Yes

- Adoption of Resolution- JLUB #2019-3, Sean O'Mara, 110 Myrtle Avenue (Bl 14, Lot 2)
The Chair provided the Board with a short summary of the bulk variance application for 6' high fence. Ms. Stewart made a motion to adopt the resolution, which was seconded by Mr. Uricchio. All those eligible to vote voted as follows:

<u>Class IV</u>	<u>Class IV</u>	<u>Class I</u>	<u>Class IV</u>	<u>Class III</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class IV</u>	<u>Class II</u>
Benjamin	Brennan	DeSimone	Fiume	Fitzgerald	Lammey	Licata	Stewart	Uricchio	Woods	Wuebker
	Yes	Abstain	Yes	Abstain	Yes	Abstain	Yes	Yes		Yes

6. NEW BUSINESS

- Borough Council Resolution R19-80. *Discussion of Land Use, Construction, and Economic Development Policies and Regulations.*

Chairman Brennan summarized the Council Resolution that requests the Board to consider some policy/regulation changes. The Borough's goal is to promote the success of the business districts by eliminating any needless red tape for new businesses, while at the same time continuing to safeguard the Board's ability to review potentially sensitive or intense uses or activities (those that could detrimentally impact noise, odors, vibrations, traffic, pedestrian and vehicular circulation and safety, trash removal, character of the community, etc.). The Chair noted that the regulations need be easy to understand and to implement for the current (and any future) Zoning Officer.

A Board member agrees the reference in the Zoning Ordinance about the Zoning Officer issuing a Certificate of Occupancy should be removed. There was a discussion about what the difference is between a CO, zoning permit, and CCO. There is a lot of confusion regarding the term CO. Many persons refer to a property maintenance and smoke detector/carbon monoxide/ fire extinguisher certificate upon the resale of property as a CO inspection; in Merchantville, we have renamed it a Resale Inspection Certificate. However, only the Construction Official can issue a Certificate of Occupancy – a CO is intended to ensure that construction has been performed in accordance with the building permit, pursuant to construction code. The roles and correct terminology need to be fixed and clarified in the Borough's ordinances.

A Board member explained that in his experience, it benefits tenants to request a Certificate of Continuing Occupancy. There was a discussion about how many new businesses are not savvy to know to do that. He further explained the types of inspections that occur by the Fire Department and how it is in some ways similar and in some ways different than what would occur by the Construction office's sub-code officials (building, electric, fire, plumbing) – it may trigger need for sprinklers, handicapped accessibility, min # of bathrooms, etc. Ms. Wuebker suggested that she meet with Council liaisons (and any board members if they desire), Mr. Patti (the Fire Official), Mr. Connelly (Code Enforcement Officer), and Mr. Mecca (Construction Official) to discuss the scope and extent of inspections and whether it would be beneficial to require a CCO in between tenants and/or owners (and whether the benefits would outweigh the potential detriment (i.e., costs and time to the tenants – approximately \$300); time capacity of part-time inspectors). Board member also mentioned whether there would be any liability if something is missed during the inspection.

There was a discussion about moving the site plan regulations out of the Zoning Ordinance into a stand-alone ordinance that is improved. While we are removing the change of use requirement for permitted uses, but triggering it for such things as changes to grading, drainage, changes to internal circulation, etc. The consensus of the group was to not require site plan approval for outdoor seating at restaurants, but rather include design guidelines into the site plan ordinance (similar to what did for Redevelopment Area) and would need to go to the Board if want to do something different.

Chairman Brennan brought the discussion back to the Change of Use issue. The Board has a copy of Ms. Wuebker's memo discussing the current 'change of use' process, certificates of occupancy matters, as well as her recommendations for consideration. Currently, every change of use (i.e., a use that is not essentially similar as the last use, and/or has a more intense parking requirement) must come to the Board

for site plan review, even though most applicants are not proposing any exterior changes. There was a discussion about eliminating the site plan requirement for non-controversial low impact uses, while making certain uses conditionally permitted uses that would need to go to the Board for evaluation of compliance with conditions. Mr. Madden asked why every change of use should not come to the Board then to make it easier to implement.

The chair provided some examples when a change of permitted use should not have to come to the Board, and should be permitted as of right. He feels that for new restaurants, where there is a potential for increase in parking needs (adding more tables), should be required to come to the Board – also discussion about restaurants should be evaluated for impact with regard to parking, trash, odors, etc. There was also a discussion that certain uses, like banks and child care centers, should be required to provide a site plan because of driveway concerns and potential pick-up/drop-off circulation issues. Ms. Wuebker believes that there is some special protection in the municipal land use law regarding limitations on child care centers that needs to be further researched.

A Board member asked whether it's possible to restrict the number of certain types of business (ex. number of hair salons, nail salons, etc. to ensure a variety). It is not believed that the Borough could legally do that, but it could be researched.

Mr. Madden asked whether the Borough would want to use the SIC classification like Collingswood, as a means of instituting a standardized classification (to eliminate subjectivity in determining whether it is a change of use). However, Ms. Wuebker explained that Collingswood uses the first digit of the code, which she thinks is still too broad – for instance, retail and wholesale are treated the same. Collingswood's Administrator told her that they are making changes when they redo their Master Plan Reexam – they are going to eliminate the change of use Board requirement for permitted uses, for the same reasons why we are considering the change in policy.

Ms. Wuebker would like to recommend the policy changes in the Land Use and Economic development sections of the Master Plan Reexam and thereafter implement those policies, by Zoning Ordinance amendments. The Chair would prefer to prepare proposed changes to the Zoning Ordinance now. He asked Ms. Wuebker to prepare draft changes to the Zoning Ordinance – specifically to the permitted and conditional use sections of the B-1 and B-2 district so that the general retail and services category is broken further down and some particular uses are identified as conditional uses with site plan requirements; eliminate the reference in Zoning Ordinance to Zoning Officer issuing certificate of occupancy and suggest corrections to other sections of the ordinance. Mara will work with Mr. Madden on the use matters and Mr. Hanson on the site plan matters over the next month. There will be no meeting on the 24th. Instead, the next Board meeting will be on October 8th.

7. **ADJOURNMENT.** Mr. Lammey made a motion to adjourn the meeting, which was seconded by Ms. Stewart. All members present voted in favor. The meeting ended at approximately 8:55pm.